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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,722	10/30/2003	Patrick R. Lancaster III	02906.0346	6330

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EXAMINER

PARADISO, JOHN ROGER

ART UNIT PAPER NUMBER

3721

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/696,722	Applicant(s) LANCASTER, III ET AL	
	Examiner John R. Paradiso	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38,40-47,58,59,76-82,84,86-89 and 133-136 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38,40-47,58,59,76-82,84,86-89 and 133-136 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In the previous Office Action, some claims were indicated as allowable. Upon further consideration, that indication is withdrawn and the indicated claims discussed in the rejection below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-12, 14-38, 40-47, 49-58, 76-78, 80-82, 84, 86-89, and 133-135 are rejected under 35 U.S.C. 102(b) as being anticipated by JAMES ET AL (US 4743154).

JAMES ET AL discloses a method and apparatus for dispensing pallets in which pallets are stored in a magazine (P) and lifted up from a bottommost pallet, the bottommost pallet being supported by a plate. The bottommost pallet is moved from under the magazine by pusher lugs through the gap created (121) and conveyed on rollers (19). (See JAMES ET AL column 3:62-4:38 and Fig. 1-2). The pusher lugs are mounted on a conveyor which is moved by a motor.

Examiner notes that a cantilever can be considered as a large bracket, held rigidly at one end. The claimed “cantilevered pusher bar” is being read on the pusher lugs of JAMES ET AL, since they are held rigidly on the end secured to the conveyor and extend outward to engage the pallet.

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Regarding claim 4, 24-26, 54-56, Fig. 2 of JAMES ET AL shows that the pusher lugs move from horizontal to vertical and back repeatedly.

Regarding claim 5, the pusher lugs of JAMES ET AL move from the rear of the pallet to the front and therefore from the rear gap created by the raising of the other pallets to the front gap, which was created the same way.

Regarding claim 18 and 31, sensors (not shown) provide input to a programmable logic controller (25) to sense jams and stop the machine as appropriate if a jam occurs (see column 14:14-38).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 13, 79, and 136 are rejected under 35 U.S.C. 103(a) as being unpatentable over JAMES ET AL.

JAMES ET AL discloses a method and apparatus for dispensing pallets, as described above.

JAMES ET AL does not specifically disclose means for adjusting the size of an interior of the pallet magazine.

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Regarding claim 13, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the pallet magazine size of JAMES ET AL adjustable by adding a means to adjust the size of an interior of the pallet magazine in order to accommodate different commercial sizes of pallets, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954).

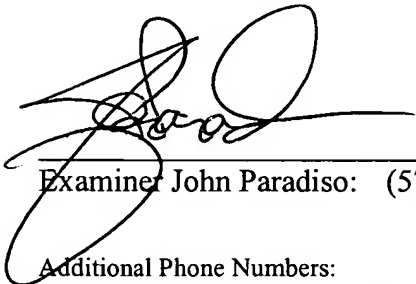
Regarding claims 79 and 136, Applicant is given Official Notice that the use of vibratory motion to reduce the incidence of snags between parts that move in proximity to one another is quite well known in the packaging art and it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide for a vibratory motion to the pallets to reduce the incidence of snags as one of the pallets is pulled from the stack.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.



Examiner John Paradiso: (571) 272-4466

November 13, 2005

Additional Phone Numbers:

Supervisor Rinaldi Rada: (571) 308-7135

Fax (Official): (571) 273-8300

Fax (Direct to Examiner) (571) 273-4466 (Drafts only)